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**MEMORANDUM**

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**DATE:** November 12, 2002

**TO:** Gary Schiff, Zoning and Planning Committee Chair  
Zoning and Planning Committee Members

**FROM:** Kimberly Tollefson, City Planner  
612.673.2998

**RE:** Accessory Dwelling (AD) Overlay District

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**Planning Department Revisions and Alternative:**

The Planning Department recommends approval of the Accessory Dwelling Overlay as attached in the Planning Department's Alternative. At this time, Planning recommends that no additional overlay boundaries be established. Planning staff recommends a trial study with a twelve to eighteen month status report to the Planning Commission and the Zoning and Planning Committee. The update would include established criteria to assess the success of the AD Overlay District. The assessment of this amendment's success may determine if and where other neighborhoods in the city should be mapped with the overlay and may suggest amended policies to the text.

Based on discussions at the Planning Commission and Zoning and Planning Committee level, staff has revised the text of the overlay. The difference between the Planning Commission Recommendation and the Planning Department Alternative are as follows:

1. *Section 551.1050. Minimum Zoned Area.*

The addition of this provision suggests that consensus must be built within an area before the addition of overlay zoning is sought. The provision avoids a piecemeal approach to the review and recommendation of zoning requests. A two-acre minimum zoned area is recommended.

2. *Section 551.1060(1). Conditional uses.*

The Planning Department Alternative requires that the principal residential structure be allowed in the primary district. For example, a multiple-family dwelling in an R2B District would not be eligible to add an accessory dwelling.

3. *Section 551.1060(2). Conditional Uses.*

The Planning Department Alternative elaborates on the Planning Commission Alternative for the provision of owner-occupancy. The alternative requires that the property be homesteaded. In addition to requiring the filing of a deed restriction with Hennepin County, the new language requires annual registration with the Assessor's Office indicating that at least one of the units is homesteaded.

4. *Section 551.1060(4). Conditional Uses.*

The Planning Department revised the provision pertaining to minimum lot area. The revised language clarifies that the minimum lot area be either 5,000 square feet or that required for the primary structure, whichever is greater.

**Zoning and Planning Committee Action of 09.17.02:**

Postpone the Accessory Overlay Text Amendment to the October 1, 2002 Zoning and Planning Committee Meeting.

**Zoning and Planning Committee Action of 10.01.02 and 10.15.02 and 10.29.02:**

Postpone the Accessory Overlay Text Amendment to the November 12, 2002 Zoning and Planning Committee Meeting.

The Zoning and Planning Committee postponed the Accessory Dwelling Overlay Text Amendment in order to address the following:

1. *Enforcement of the owner-occupancy requirement.*

The Planning Department consulted with the Rental License Division of the Department of Inspections and the Assessor's Office. The City staff agreed that the most appropriate and measurable tool for enforcement would be an annual registration card filed in the Assessor's Office. Enforcement of this provision will require additional staff resources and administrative cost to the city.

If the property owner of the zoning lot in which an accessory dwelling is located does not file an annual registration card with the Assessor's Office, the Assessor's Office will notify the Zoning Administrator and the Rental License Division. The Zoning Office would then take action to revoke the approved conditional use permit due to non-compliance. If the unit were rented, the Rental License Division would also issue notice of violation to landlord. The City would consider the accessory dwelling unit the illegal unit.

2. *Upgrades to water and sewer service lines.*

The Planning Department consulted the Department of Public Works to better understand this issue. According to Public Works, the code authorizes upgrades to the water and sewer lines only if a new tap to the main is requested. This is why under new construction; the recommended size of line can be required. In this type of development, a zoning lot has an existing line established to the main. If a new line were requested, Public Works would have the authority to require upgrades and shut off the existing main. Two lines of service from the main are not allowed to one property due to the potential for cross-connections. Cross-connections could lead to contamination of the public water system. Public Works does not have the authority to conduct inspections or tag properties.

**Planning Commission Action of 09.09.02:**

Approve Accessory Dwelling Overlay Text Amendment

The Planning Commission recommended approval of the Accessory Dwelling Overlay Text Amendment with changes to the draft language. In addition, Planning Commission requested that staff consider the following:

1. *A five (5) – year sunset clause on the text amendment.*

The Planning staff, in consultation with the City Attorney's Office, determined that a sunset clause is subject to challenge. First, there is a prescribed process to amend or repeal text within the Zoning Code and state law. The process requires notification and a public hearing. An automatic repeal of the overlay could be subject to challenge based on the lack of due process. Further, an automatic repeal would lead to the creation of nonconforming uses without consideration given to their number or location.

The Planning Department recommends that a sunset clause **not** be added to the overlay district.

2. *A defined process for which additional areas of the city may establish boundaries for the AD Overlay.*

Although not necessary to add to the text, language from 551.50 describes the current process for such action:

*Eligible areas outside of established boundaries.* The city council may designate areas outside of the established boundaries in the manner provided for zoning amendments in Chapter 525, Administration and Enforcement.

The Planning Department recommends the use of the current process, listed above, if and when additional boundaries for the overlay are to be considered for establishment

3. *A tool to help better ensure the enforcement of the owner-occupancy requirement.*

The Planning Department has added text to the Planning Commission Recommendation which requires the property owner to file with the Office of Hennepin County Recorder or the Registrar of Titles a deed restriction running in favor of the City limiting occupancy to this effect and to submit to the zoning administrator evidence of proper filing prior to the issuance of any building permits for the accessory dwelling.

Please find attached the Planning Commission Recommendation. This version of the overlay includes information that the Planning Commission wanted Planning staff to consider, as noted above.

**Recommendation Of The City Planning Department:**

The City Planning Department recommends that the Zoning and Planning Committee **approve** the Planning Department's Alternative of the Accessory Dwelling (AD) Overlay District (please see attached Planning Department Alternative).

# Planning Commission Recommendation

**Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to Zoning Code: Overlay Districts.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That ARTICLE XIV, NP North Phillips Overlay, of the above-entitled ordinance be amended to read as follows:

## ARTICLE XIV. AD ACCESSORY DWELLING ~~NP NORTH PHILLIPS~~ OVERLAY DISTRICT

Section 2. That Section 551.1020 of the above-entitled ordinance be amended to read as follows:

**551.1020. Purpose.** The AD Accessory Dwelling ~~NP North Phillips~~ Overlay District is established to promote home ownership and to allow a variety of housing types, costs and arrangements that may not meet the regulations of the primary zoning district, including the limit of one principal residential structure per zoning lot, where the primary zoning district allows two-family or multiple-family dwellings.

Section 3. That Section 551.1030 of the above-entitled ordinance be amended to read as follows:

**551.1030. Established boundaries.** The boundaries of the AD ~~NP~~ Overlay District shall be the areas shown on the official zoning map.

Section 4. That Section 551.1040 of the above-entitled ordinance be amended to read as follows:

**551.1040. Definition.** *Accessory dwelling.* A single-family dwelling that is detached from and subordinate to a principal residential structure on the same zoning lot, and that is located entirely above a parking garage with not less than two (2) accessory parking spaces.

Section 5. That Section 551.1050 of the above-entitled ordinance be amended to read as follows:

**551.1050. Conditional uses.** In addition to the conditional uses allowed in the primary zoning district, the establishment of one (1) accessory dwelling on a single zoning lot, other than a cluster development or planned unit development, may be allowed in the AD ~~NP~~ Overlay District, subject to the provisions of Chapter 525, Administration and Enforcement, and the following:

- (1) No accessory dwelling shall be constructed or established prior to the time of construction of the principal residential structure to which it is accessory. This section shall not prohibit a construction project in which both the principal residential structure and accessory dwelling are to be built simultaneously.
- (2) At least one (1) dwelling unit on the zoning lot shall be owner-occupied. The property owner shall file with the Office of the Hennepin County Recorder or Registrar of Titles a deed restriction running in favor of the City limiting occupancy to this effect, and shall submit to the zoning administrator evidence of proper filing prior to the issuance of any building permits for the accessory dwelling.
- (3) There shall be no more than ~~three (3) dwelling units~~ one (1) principal residential structure on a zoning lot in addition to the accessory dwelling.
- (4) The minimum lot area shall be five thousand (5,000) square feet, except in the R2 Two-family District where the minimum lot area shall be six thousand (6,000) square feet. ~~that required by the primary zoning district or two thousand five hundred (2,500) square feet per dwelling unit, whichever is less.~~
- (5) There shall be no other accessory structures designed or intended to be used for the parking of vehicles allowed on the zoning lot.
- (6) The parking spaces located below the accessory dwelling shall be accessible through the alley where there is an alley, except as otherwise authorized by the city planning commission.
- (7) There shall be an unobstructed walkway leading from the public street to the accessory dwelling.
- (8) The minimum rear and interior side yard requirements for the accessory dwelling shall be not less than those specified by the primary zoning district for principal uses, except as otherwise authorized by the city planning commission.
- (9) The principal residential structure and the accessory dwelling shall be separated by not less than ten (10) feet and shall not be connected to each other by any structure.
- 10) The minimum floor area of the accessory dwelling unit shall be three hundred fifty (350) square feet.

(11) The accessory dwelling shall be compatible in character with the principal residential structure on the zoning lot and with the surroundings, and shall comply with the following specific requirements:

- a. The height of the accessory dwelling shall not exceed the height of the principal residential structure, or two and one-half (2.5) stories or thirty-five (35) feet, whichever is less.
- b. The roof of the accessory dwelling shall be similar in form and pitch to that of the principal residential structure.
- c. The exterior building materials and appearance of the accessory dwelling shall be similar to that of the principal residential structure.
- ~~d. Exterior stairways leading to the accessory dwelling shall be prohibited.~~
- d. Not less than fifteen (15) percent of the facade of the accessory dwelling that faces a public street or alley shall be windows.

# Planning Department Alternative

**Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to Zoning Code: Overlay Districts.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 551.20 of the above-entitled ordinance be amended to read as follows:

**551.20. Establishment of overlay districts.** The overlay district names are:

PO Pedestrian Oriented Overlay District  
LH Linden Hills Overlay District  
IL Industrial Living Overlay District  
TP Transitional Parking Overlay District  
SH Shoreland Overlay District  
FP Floodplain Overlay District  
MR Mississippi River Critical Area Overlay District  
DP Downtown Parking Overlay District  
B4H Downtown Housing Overlay District  
DH Downtown Height Overlay District  
NM Nicollet Mall Overlay District  
HA Harmon Area Overlay District  
AD Accessory Dwelling Overlay District

Section 2. That ARTICLE XIV, NP North Phillips Overlay, of the above-entitled ordinance be amended to read as follows:

**ARTICLE XIV. AD ACCESSORY DWELLING ~~NP NORTH PHILLIPS OVERLAY~~ DISTRICT**

Section 3. That Section 551.1020 of the above-entitled ordinance be amended to read as follows:

**551.1020. Purpose.** The AD Accessory Dwelling ~~NP North Phillips~~ Overlay District is established to promote home ownership and to allow a variety of housing types, costs and arrangements that may not meet the regulations of the primary zoning district, including the limit of one principal residential structure per zoning lot, where the primary zoning district allows two-family or multiple-family dwellings.

Section 4. That Section 551.1030 of the above-entitled ordinance be amended to read as follows:

**551.1030. Established boundaries.** The boundaries of the AD ~~NP~~ Overlay District shall be the areas shown on the official zoning map.

Section 5. That Section 551.1040 of the above-entitled ordinance be amended to read as follows:

**551.1040. Definition. Accessory dwelling.** A single-family dwelling that is detached from and subordinate to a principal residential structure on the same zoning lot, and that is located entirely above a parking garage with not less than two (2) accessory parking spaces.

Section 6. That Section 551.1050 of the above-entitled ordinance be amended to read as follows:

~~**551.1050. Eligible areas outside of established boundaries.** The NP Overlay District shall be limited to locations within the area bounded by Interstate 35W, Interstate 94, East 24th Street, and Hiawatha Avenue where the primary zoning district allows two-family dwellings. Any person having a legal or equitable interest in property located within the eligible area outside of the established boundaries may file a petition to request the addition of the NP Overlay District classification in the manner provided for zoning amendments in Chapter 525, Administration and Enforcement.~~

**551.1050. Minimum Zoned Area.** The AD Overlay District shall contain a minimum contiguous area of two (2) acres, which may be separated by a public right-of-way, railroad right-of-way, or stream, except the Mississippi River.

Section 7. That Section 551.1060 of the above-entitled ordinance be amended to read as follows:

**551.1060. Conditional uses.** In addition to the conditional uses allowed in the primary zoning district, the establishment of one (1) accessory dwelling on a single zoning lot, other than a cluster development or planned unit development, may be allowed in the AD NP Overlay District, subject to the provisions of Chapter 525, Administration and Enforcement, and the following:

- (1) The principal residential structure shall be a permitted or conditional use in the primary zoning district. No accessory dwelling shall be constructed or established prior to the time of construction of the principal residential structure to which it is accessory. This section shall not prohibit a construction project in which both the principal residential structure and accessory dwelling are to be built simultaneously.
- (2) At least one (1) dwelling unit on the zoning lot shall be homesteaded owner-occupied, and the property owner shall file a homestead declaration with the City Assessor annually. In addition, the property owner shall file with the Office of the Hennepin County Recorder or Registrar of Titles a deed restriction running in favor of the City limiting occupancy to this effect, and shall submit to the zoning administrator evidence of proper

filing prior to the issuance of any building permits for the accessory dwelling.

- (3) There shall be no more than ~~three (3) dwelling units~~ one (1) principal residential structure on a zoning lot in addition to the accessory dwelling.
- (4) The minimum lot area shall be five thousand (5,000) square feet or that required by the primary zoning district for the principal residential structure, whichever is greater, ~~that required by the primary zoning district or two thousand five hundred (2,500) square feet per dwelling unit, whichever is less.~~
- (5) There shall be no other accessory structures designed or intended to be used for the parking of vehicles allowed on the zoning lot.
- (6) The parking spaces located below the accessory dwelling shall be accessible through the alley where there is an alley, except as otherwise authorized by the city planning commission.
- (7) There shall be an unobstructed walkway leading from the public street to the accessory dwelling.
- (8) The minimum rear and interior side yard requirements for the accessory dwelling shall be not less than those specified by the primary zoning district for principal uses, except as otherwise authorized by the city planning commission.
- (9) The principal residential structure and the accessory dwelling shall be separated by not less than ten (10) feet and shall not be connected to each other by any structure.
- (10) The accessory dwelling shall be compatible in character with the principal residential structure on the zoning lot and with the surroundings, and shall comply with the following specific requirements:
  - a. The height of the accessory dwelling shall not exceed the height of the principal residential structure, or two and one-half (2.5) stories or thirty-five (35) feet, whichever is less.
  - b. The roof of the accessory dwelling shall be similar in form and pitch to that of the principal residential structure.
  - c. The exterior building materials and appearance of the accessory dwelling shall be similar to that of the principal residential structure.

~~d. Exterior stairways leading to the accessory dwelling shall be prohibited.~~

d. Not less than fifteen (15) percent of the facade of the accessory dwelling that faces a public street or alley shall be windows.

(11) The minimum floor area of the accessory dwelling unit shall be three hundred (300) square feet.